

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 April 2019

Public Authority: Halton Borough Council
Address: Municipal Buildings
Kingsway
Widnes
WA8 7QF

Decision (including any steps ordered)

1. The complainant has requested information relating to stray dogs. Halton Borough Council failed to respond within the statutory 20 working days prescribed by FOIA.
2. The Commissioner's decision is that in failing to communicate to the complainant all the information it held to fulfil the request within the statutory timescale of 20 working days, Halton Borough Council breached section 10(1) (time for compliance) of the FOIA.
3. The council has now provided all the information to the complainant, therefore the Commissioner does not require the council to take any steps.

Request and response

4. On 6 June 2018 the complainant wrote to Halton Borough Council ('the council') and requested information in the following terms:

"Please can you provide me with the following information from 1st January 2017 to 31st December 2017 and from 1st January 2018 to date.

- [1] *Total numbers of dogs collected by the dog warden, Animal Wardens or by any person or company subcontracted to provide a dog warden service by the Council.*
- [2] *Total numbers of dogs returned to owner within 7 days.*
- [3] *Total number of dogs boarded at an establishment for the boarding of stray dogs within 7 days of being collected. Please indicate which establishment the dogs were boarded at and, if there is more than one such establishment, a breakdown as to how many dogs were boarded at each.*
- [4] *Total numbers of dogs disposed to an establishment for the boarding of stray dogs after 7 days. Please indicate which establishment the dogs were disposed to and, if there is more than one such establishment, a breakdown as to how many dogs were disposed to each.*
- [5] *Total numbers of dogs euthanased within 7 days of having been collected.*
- [6] *Total number of dogs euthanased 7 days or more after collection.*
- [7] *Total number of dogs disposed to the finder of the dog.*

In relation to each of the above queries, please provide a separate breakdown for 1st January 2017 to 31st December 2017 and from 1st January 2018 to date. All of the above information should be available on the register of seized dogs."

5. The council responded on 23 July 2018 and provided some information within the scope of the request but refused to provide the remainder. Specifically the council withheld the names and addresses of establishments requested in [3], citing section 38(1)(b) -endanger the safety of any individual, of the FOIA. It provided a partial response to

[4] and stated it could not answer [7] due to the amount of manual processing required.

6. The complainant requested an internal review of questions [3],[4] and [7] on 11 September 2018.

7. Following an internal review the council wrote to the complainant on 5 October 2018. In relation to each question the council:

[3] upheld its original position;

[4] confirmed its initial response was correct stating *"I can confirm that the figures which have been provided to you regarding the number of dogs gifted in 2017 and 2018 is correct"*

[7] upheld its original position. But also stated that "during office hours the Council has available for inspection at Runcorn Town Hall a hard copy of the register from April 2018. From reviewing that information Officers can confirm that no stray dogs have been returned to the finder since that date."

8. Following the Commissioner's enquiries the council provided a fresh response to the complainant on 10 April 2019. In terms of each question the council:

[3] Released the information. The council stated that the original position had been correct however it no longer considered that the stated exemption applied. This is because the council had subsequently become aware that another council had disclosed details of the kennels.

[4] Provided further details. It clarified that it is not required to record details of establishments that dogs are subsequently transferred however it stated: *"Whilst the Council does not record, or require Animal Wardens Ltd to provide, details of establishments that they may subsequently transfer dogs to after they have been given to them it is the Councils understanding that this would include Merseyside Dogs Home and other rescue centres with a view to the dogs being rehomed with a new family."*

Scope of the case

9. The complainant contacted the Commissioner on 7 October 2018 to complain about the way his request for information had been handled. During the course of the investigation the council provided further information to the complainant. On 15 April 2019 the complainant

confirmed that his request for information had been satisfied however he asked that the lateness of the response be formally recorded.

10. The Commissioner therefore considers the scope of the case to be whether the Council complied with its obligations under section 1 of the FOIA (general right of access to information held by public authorities) and section 10 (time for compliance with the request).

Reasons for decision

Section 1 – general right of access

11. Section 1(1) of the FOIA states:

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

Section 10 – time for compliance

12. Section 10(1) of FOIA states that:

“... a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt”.

13. The complainant made his request for information on 6 June 2018. The council provided its initial response on 23 July 2018, which falls outside of the 20 working days from the date the request was received. The council provided further explanation of its responses after the internal review on 5 October 2019 and following the Commissioner’s enquiries on 10 April 2019.
14. The Commissioner is therefore satisfied that the Council has breached section 10(1) of the FOIA by failing to respond to the request within 20 working days.

Right of appeal

15. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Andrew White
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